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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HAWKINS, CHERYL N

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/768,450

Applicant(s)

SLOOT, ALEXANDER

Examiner

Cheryl N Hawkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda (US 3,758,358). Kuroda discloses a method of manufacturing an article including the steps of juxtaposing a fabric layer (Figure 6, support 2; column 3, lines 45-47) having a fabric peripheral edge (the bottom edge of the support 2) with a layer of thermoplastic material (Figure 6, layer 3); cutting the thermoplastic material so its outer edge (the top edge of layer 3) is spaced outwardly from the fabric peripheral edge; and simultaneously with cutting sealing the fabric layer to the layer of thermoplastic material to form a sealed periphery (Figures 5 and 6; column 5, line 63 through column 6, line 4).

As to Claim 2, Kuroda discloses a method in which the sealing of the fabric layer to the layer of thermoplastic material includes heat sealing (Figures 5 and 6; column 5, lines 63 through column 6, line 4).

As to Claim 3, Kuroda discloses a method in which juxtaposing the fabric layer with the layer of thermoplastic material includes overlying the fabric layer with another layer of thermoplastic material, thereby sealing the fabric layer to two opposite layers of thermoplastic material (column 2, line 70 through column 3, line 5).

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As to Claim 7, Kuroda discloses a method which includes the step of forming a decorative area spaced from the sealed periphery simultaneously with sealing the fabric layer to the layer of thermoplastic material.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda (US 3,758,358) as applied to claim 1 above. Kuroda is silent as to a method in which the layer of thermoplastic material initially covers the entire fabric layer. When utilizing the method of Kuroda to provide small articles, e.g. bibs, bandannas, or belts, with large decorative appliques, it would have been obvious to one of ordinary skill in the art at the time of the invention to initially cover the entire fabric layer with the thermoplastic material prior to performing the method of Kuroda to bond the appliqué to the article and trim away the excess thermoplastic layer.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda (US 3,758,358) as applied to claim 1 above, and further in view of Peterson (US 4,268,338) and Azulay (US Pub. No. 2002/0079039). Kuroda does not disclose a method in which the layer of thermoplastic material is a strip covering only a peripheral region of the fabric layer which

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includes the fabric peripheral edge. It is well known and conventional in the material cutting art, as disclosed by Peterson (abstract; Figure 1), to use a die to simultaneously cut and sealing material layers. Azulay discloses a method in which a layer of thermoplastic material (Figure 5, trim 40) is a strip covering only a peripheral region of the fabric layer (Figure 5, fabric body 26) which includes the fabric peripheral edge. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Kuroda to apply a strip to the fabric as suggested by Azulay and use the welding die of Kuroda to simultaneously seal the thermoplastic and fabric layers and trim the thermoplastic strip.

6. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda (US 3,758,358) as applied to claim 1 above, and further in view of O' Neill et al. (US 6,024,455). Kuroda discloses a method in which the sealing periphery includes a covering layer (Figure 6, layer 4) made of transparent thermoplastic material (column 4, lines 5-6). Kuroda is silent as to the layer of thermoplastic material being made from a retroreflective or glowing material. O' Neill et al. discloses a reflective article (Figure 10, article 10) which includes a covering layer made of transparent material (layer 96) and a layer of thermoplastic material (layer 16) being made from a retroreflective material (column 4, lines 63-67; column 8, lines 1-2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the article manufacturing method of Kuroda to produce retroreflective garments, such as that disclosed by O' Neill et al., which are easily detectable at night thereby providing increased safety for consumers.

As to Claim 8, Kuroda discloses a method in which the decorative area includes a covering layer (Figure 6, layer 4) consisting of transparent thermoplastic material and bonded to

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the fabric layer simultaneously with trimming thereof (Figures 5 and 6; column 4, lines 5-6; column 5, line 63 through column 6, line 4). Kuroda is silent as to the layer of thermoplastic material being made from a retroreflective or glowing material. O' Neill et al. discloses a reflective article (Figure 10, article 10) which includes a covering layer made of transparent material (layer 96) and a layer of thermoplastic material (layer 16) being made from a retroreflective material (column 4, lines 63-67; column 8, lines 1-2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the article manufacturing method of Kuroda to produce retroreflective garments, such as that disclosed by O' Neill et al., which are easily detectable at night thereby providing increased safety for consumers.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039) in view of Peterson (US 4,268,338) and Kuroda (US 3,758,358). Azulay discloses a process of manufacturing an article of clothing including the steps of interposing a fabric layer (fabric body 26) with a pre-cut thermoplastic layer (trim 40) such that a peripheral edge of the fabric layer extends within the thermoplastic layer; sealing the overlapped areas of the fabric and thermoplastic layers to each other to form a trimmed article of clothing. Azulay does not disclose providing a die and applying the die to the thermoplastic layer to simultaneously cut the thermoplastic layer and seal the fabric and the thermoplastic layer. It is also well known and conventional in the sealing and cutting apparatus art, as disclosed by Peterson (Figure 1) and Kuroda (Figure 6), to use a die to provide for simultaneously cutting and sealing of thermoplastic layers. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Azulay to include a die to trim both ends of the thermoplastic layer and to seal the thermoplastic layer to the fabric layer simultaneously;

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simultaneous cutting and sealing steps being well established in the art for the prevent raveling of fabric edges, as well as being time efficient by eliminating the time needed for separately pre-cutting the thermoplastic layer to size and subsequently bonding it to the fabric layer. The modified method of Azulay would result in a process including the steps of interposing the fabric layer with an unsized thermoplastic layer and simultaneously sealing both sides of the thermoplastic layer to the fabric layer while trimming the ends of the thermoplastic layer to its desired size.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039), Peterson (US 4,268,338), and Kuroda (US 3,758,358) as applied to claim 9 above, and further in view of Demerest (US 3,901,579). Azulay discloses manufacturing several different articles of clothing such as a shirt, brassiere, or underwear (Figures 1-3), but is silent as to providing the article with a pair of adjustable straps. It is well known and conventional in the garment manufacturing art, as disclosed by Demerest (abstract), to provide an article with adjustable straps to fit different sized persons. When utilizing the method of Azulay to manufacturing an article of clothing such as a brassiere, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the article with a pair of adjustable straps; adjustable straps being well established in the art for providing adjustment of the article to fit persons of varying sizes.

9. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039), Peterson (US 4,268,338), and Kuroda (US 3,758,358) as applied to claim 9 above, and further in view of O' Neill et al. (US 6,024,455). As to Claims 11 and 12,

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Azulay does not disclose a method which includes a step of forming a decorative area spaced inwardly from the trim simultaneously with sealing the fabric layer to the layer of thermoplastic material. It is well known and conventional in the sealing and cutting apparatus art, as disclosed by Peterson (Figure 1), to use a die to provide for simultaneously cutting and sealing of thermoplastic layers. Kuroda discloses a welding die having multiple welding ledges for creating decorative articles containing appliqués (Figure 6). When desiring to provide an article of clothing with a decorative area (i.e. an appliqué), it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Azulay to include the use of a die having multiple welding ledges such as that of Kuroda which would be capable of simultaneously cutting and sealing the thermoplastic layer, as well as providing for a decorative appliqué area. Azulay is also silent as to including a covering layer made of transparent thermoplastic material or a backup layer of thermoplastic material being made from retro-reflective or glowing material. O' Neill et al. discloses a reflective article (Figure 10, article 10) which includes a covering layer made of transparent material (layer 96) and a layer of thermoplastic material (layer 16) being made from a retroreflective material (column 7, lines 63-67; column 8, lines 1-2). When creating a decorative article of clothing, it would have been readily apparent to one of ordinary skill in the art at the time of the invention, as noted above, to modify the article manufacturing method of Azulay to include retroreflective layers as suggested by O' Neill et al. to produce garments which are easily detectable at night thereby providing increased safety for consumers.

Response to Arguments

10. In response to the applicant's amendments to Claims 2 and 8, the Examiner has withdrawn the objection to Claim 2 and the rejection of Claims 2 and 8 under 35 USC §112, second paragraph.

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection. The Examiner has presented a modified rejection utilizing the Kuroda reference, which discloses a method of manufacturing an article including the steps of juxtaposing a fabric layer having a fabric peripheral edge with a layer of thermoplastic material; cutting the thermoplastic material so its outer edge is spaced outwardly from the fabric peripheral edge; and simultaneously with cutting sealing the fabric layer to the layer of thermoplastic material to form a sealed periphery.

In response to the applicant's arguments that the trim of Azulay which comprises a textile material which contains thermoplastic fibers does not meet the limitations of the claims, the Examiner disagrees. Azulay discloses that the trim, which can be a decorative and/or elastic textile material, contains a sufficient quantity of thermoplastic fibers such that the trim is thermally bondable to itself as well as other textile materials likewise containing a sufficient quantity of thermoplastic fibers (page 2, paragraphs 23 and 24). The conventional definition of thermoplastic is a material which becomes soft upon heating and hardens when cooled. The Examiner's position is that the limitations recited by Claim 9 do not require the "thermoplastic layer" to be made entirely out of thermoplastic materials, but only that the layer behave thermoplastically. Since the trim disclosed by Azulay becomes plastic and flowable upon heating and solidifies upon cooling (pages 2 and 3, paragraph 24), the Examiner maintains that the trim as disclosed by Azulay meets the requirements for Claim 9 for a thermoplastic layer. In

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any event, the trim disclosed by Azulay is composed of a decorative or elastic textile material, which commonly include thermoplastic materials such as nylon and polyester.

Applicant's arguments with respect to reference of Gute have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl N. Hawkins whose telephone number is (703) 306-0941. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where the application or proceeding is assigned is (703) 872-9310 for regular communications or (703) 872-9311 for After-Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

Cheryl N. Hawkins

Cheryl N. Hawkins 2/24/03

February 24, 2003



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